Remarks

Claims 1-6, 8-18, 20 and 21 are pending In this response, claims 1 and 16 are amended. Claims 1 and 16 were amended to more clearly claim what applicants consider to be their invention. Applicant submits that no new matter has been added by these amendments.

Drawing Objections

The Office Action provides that FIGS. 1-4 and 7-16 are objected to because they contain the lawyer's docket number, which should be replaced with the U.S. Serial Number of the application. Applicant hereby submits replacement drawings for all of the drawings in compliance with 37 CFR 1.121(d) to overcome these objections.

Rejections - 35 USC § 103

The Office Action provides that claims 1-21 are rejected under 35 USC 103(a) as being unpatentable over Nakayama et al. (US 6907001 B1, hereinafter Nakayama) in view of Rosen, IETF RFC 3031, "MPLS Architecture", January, 2001 (hereinafter RFC3031). However, because claims 7 and 17 have previously been cancelled, Applicant assumes that the Office Action means that claims 1-6, 8-18, 20 and 21 have been rejected under 35 USC 103(a), and will respond accordingly based on that assumption.

For claim 1, the Office Action alleges that:

Nakayama discloses in a multi-slice network processor system (FIG. 1) comprising a plurality of processing slice modules, each module processing and storing a slice of packet data, a method for processing a packet in packet slices for transfer over a network interface comprising:
assigning a packet identifier (identification filed in IP packet header, line 34 of Col. 4) to the packet;

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segmenting data of the packet into cells, the data including both header and body data for the packet (lines 34-35 of Col. 4);

generating cell descriptive information (82 of FIG. 14b) for each cell, the cell descriptive information including the packet identifier, and a packet position indicator indicating an order position of data of the cell with respect to the packet (82 of FIG. 14b; notice that fields in cell header can be used to store the cell descriptive information in any way needed); and

delivering one or more cells of the packet to one or more processing slice modules based upon load balancing criteria (QoS processor, line 56 of Col. 1);

storing one or more cells in a buffer in the packet slice (this is inherent from including the packet identifier to each cell: a cell must be stored in a buffer for header updating); and

generating a buffer correlation data structure correlation the buffer of the packet slice **(this is inherent from including the packet identifier to each cell: cells belongs to the same packet must have the same packet identifier, which is a kind of data structure correlation);**

Nakayama is silent on prepending a system header to the packet, the system header providing information for use by the multi-slice system;

RFC3031 teaches prepending a label to each packet (lines 1-4 of Section 3.1). The information on how the local system would process the packet is provided via the label (therefore, the label is equivalent to the system header).

Using label has many advantages, including reducing the complexity (first item of Page 4 of Nakayama) of packet processing and flexibility (second item of Page 4 of Nakayama).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to use RFC3031 to modify Nakayama to use label as the system header due to benefit of reducing the complexity of packet processing and performance enhancement. (Office Action, pgs. 3-5, emphasis added in bold.)

As to Claim 16, the Office action alleges that it is the corresponding system claim of claim 1, therefore, is rejected for the same reason as explained in claim 1 above.

Applicants first submit that, for a *prima facie* case of obviousness, the cited prior art references (when combined) "must teach or suggest all the claim limitations" MPEP § 2143. Thus, if the combination of references does not teach each of the claimed limitations, a finding of obviousness fails. In addition, the Patent Office has the burden under § 103 to establish a *prima facie* case of obviousness, which can be satisfied only by showing some objective teaching in the prior art would lead one to combine the relevant teachings of the references. *See In re Fine*, 837

F.2d 1071, 1074 (Fed. Cir. 1988). As such, an Applicant, to overcome an allegation of obviousness, can show that the cited prior art references (when combined) do not teach or suggest all the claim limitations or that there is not an objective teaching in the prior art that would lead one to combine the relevant teachings of the references.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

1.   **Claims 1 and 16**

Claims 1 and 16 are independent claims. They have each been rejected in the Office Action as being obvious over Nakayama in view of RFC3031.

As indicated above, the Office Action provides in regard to claim 1 (and to claim 16) that generating a buffer correlation data structure correlation the buffer of the packet slice is inherent from including the packet identifier to each cell because cells belongs to the same packet must have the same packet identifier, which is **a kind of data structure correlation.**

Applicants submit that the buffer correlation data structure is a defined data structure, and as such is not inherent. While its functionality is to describe the association between the buffers and the packet, it is not merely an inherent correlation of unrecorded information. The buffer correlation data structure tracks the relationship between buffers of packet slices to the packet. Further, amended claims 1 and 16 require the buffer correlation data structure to be a linked list of buffer identifiers, which is clearly not disclosed, taught, suggested or made obvious by the combination of Nakayam in view of RFC30301.

This is further made clear by the amended system claim 16, which discloses the buffer correlation data structure as a data structure that comprises a portion of the system.

2.   **Claims 2-6, 8-15, 17-18, 20 and 21**

Claims **2-6, 8-15, 17-18, 20 and 21** depend either directly or indirectly from amended independent claims 1 or 16. As the Court noted in *In re Fine*, "dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious." 5 U.S.P.Q.2d 1569, 1600 (Fed. Cir. 1988).   Therefore, Applicants respectfully submit that because independent claims 82 and 95 are now nonobvious, claims 83-92, 94, and 97 are also nonobvious and are now in a form for allowance.

Second, the Supreme Court has reaffirmed the *Graham* factors for determination of obvious under 35 U.S.C. 103(a). *KSR Int'l Co. v. Teleflex, Inc.* (*KSR*), No 04-1350 (U.S. Apr. 30, 2007). The four factual inquiries under *Graham* require examination of: (1) the scope and contents of the prior art; (2) the differences between the prior art and the claims in issue; (3) the level of ordinary skill in the pertinent art; and (4) the objective evidence of secondary consideration. *Graham v. John Deere* (*Graham*), 383 U.S. 1, 17-18, 149 USPQ 459, 467 (1966); see also 35 U.S.C. § 103 (2000).

The Court has further recognized that the requirement for a teaching, suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, which was established by the Court of Customs and Patent Appeals, provides a helpful insight for determining whether the claimed subject matter is obvious under 35 U.S.C. § 103(a).

Where an invention is contended to be obvious based upon a combination of elements across different references, one should be able to identify particular reasons that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements. *See,*

KSR Int'l Co., at 14, 15. This requirement prevents the use of "the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight." *Ecolochem, Inc. v. So. Cal. Edison Co.*, 227 F.3d 1361, 1371-72 (Fed. Cir. 2000) (quoting *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999)).

Applicants submit that the current construction of the cited references in the manner provided in the Office Action requires hindsight reasoning, which the Federal Circuit has explicitly rejected. *See In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). It would not have been obvious to one of ordinary skill in the art to combine Nakayama in view of RFC3031 as both references, together or alone, fail to teach, suggest or make obvious to one of ordinary skill in the art a buffer correlation data structure as disclosed and claimed in the present application. In particular, Nakayam in view of RFC3031 fail to teach, suggest or make obvious a buffer correlation data structure for correlating one or more buffers to the packet, wherein the buffer correlation data structure is a linked list of buffer identifiers. Applicants earnestly request reconsideration, withdrawal of these rejections, and allowance of claims 1-6, 8-18, and 20-21.

Conclusion

In this response, claims 1 and 16 are amended. Claims 1-6, 8-18, and 20-21 are pending in this application. No new matter is believed to be added by these amendments. Thus, Applicants respectfully request allowance of all the pending claims.

No fee is believed due beyond the fee for the Request for Continued Examination that accompanies this paper; however, the Commissioner is hereby authorized to charge any

additional fees which may be required, or credit any overpayment to Deposit Account

No. 14-0629.

Respectfully submitted,

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